



# NORTH HEMPSTEAD BUILDING DEPARTMENT

JUDI BOSWORTH, SUPERVISOR

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*Working to Serve You Better*



## SUPPLEMENTAL INFORMATION PACKET

[www.NorthHempsteadNY.gov](http://www.NorthHempsteadNY.gov)

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# Message from North Hempstead Town Supervisor Judi Bosworth



Dear Resident,

Welcome to the Town of North Hempstead Building Department's Mobile Office Hours, a service designed to bring our Building Department staff directly into your community to facilitate the issuance of permits and final Certificates.

Applying for a building permit shouldn't be difficult and time consuming. As your Supervisor, one of my top priorities is to make it easier to navigate through the application process. Toward that end, I have established the Office of the Applicant Advocate to ensure that our Building Department functions as an ally of our residents.

Tonight, our Applicant Advocate Lauren Summa, along with additional Building Department personnel, will be available to answer your questions and address any concerns.

Please take some time to review this supplemental information packet which provides you with some tips and guidelines that will assist you during the Building Department permit process.

If you have any additional questions regarding the Building Department, the Applicant Advocate or upcoming mobile office hours, please call 311 or visit our website at [www.northhempsteadny.gov](http://www.northhempsteadny.gov).

Warmest regards,

Judi Bosworth  
North Hempstead Town Supervisor

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Judi Bosworth  
*Supervisor*

Viviana L. Russell  
*Councilwoman*

Peter J. Zuckerman  
*Councilman*

Angelo P. Ferrara  
*Councilman*

Anna M. Kaplan  
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*Councilwoman*

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*Town Clerk*

Charles Berman  
*Receiver of Taxes*

## **Most Frequently Used Definitions**

**LOT COVERAGE:** The area of the maximum horizontal cross section of the buildings on the lot (this includes detached garages and any shed with an area of more than 100 square feet), excluding cornices, eaves, gutters or chimneys projecting not more than 24 inches, steps, one-story open porches (or decks), bay windows extending not more than one story and projecting not more than five feet, balconies and terraces.

**GROSS FLOOR AREA:** See “Gross Floor Area”, page 10.

**FRONT YARD:** A yard across the full width of the lot extending from the front line of the building to the front line of the lot measured between the side property lines.

**FRONT YARD (CORNER LOT):** On a corner lot, a front yard shall be required on each street.

**AVERAGE FRONT YARD:** See “Average Front Yard Setback”, page 11.

**SIDE YARD (INTERIOR LOT):** There are two side yards, one on each side of the main building.

**SIDE YARD (CORNER LOT):** There is only one side yard. Said yard shall be on the side adjoining the interior lot opposite the front yard having the greater street frontage.

**AGGREGATE SIDE YARD:** The total width of both side yards. A corner lot does not have an aggregate side yard. The minimum aggregate side yard required for irregularly shaped properties is determined at the line of the front yard setback required.

**REAR YARD (INTERIOR LOT):** The yard opposite the front yard.

**REAR YARD (CORNER LOT):** The yard opposite the front yard having the narrower street frontage.

**HEIGHT TO RIDGE:** See “Preexisting Average Grade”, page 9.

**HEIGHT TO EAVES:** See attached “Preexisting Average Grade”, page 9.

**FRONT YARD PAVING:** The total of impervious material or paving in the front yard of the property.

**REAR YARD COVERAGE:** Accessory buildings and/or structures, except as otherwise provided, shall not occupy more than 40% of the area of the rear yard.

**PREEXISTING AVERAGE GRADE:** See attached “Preexisting Average Grade”, page 9.

**SKY EXPOSURE PLANE:** A theoretical inclined plane through which no portion of a building other than cornices or eaves projecting not more than 18 inches, gutters projecting not more than eight inches and chimneys may penetrate. It begins at a lot line and rises over the zoning lot at a ratio of vertical distance to horizontal distance as set forth in the district regulations.

**ATTIC:** The space between the ceiling joists of the top story and the roof rafters. An attic shall not be used or occupied as living or sleeping quarters. There shall be no fixed stair to any new attic space nor operable windows. Attics shall not have finished floors or heating systems. Attics over one-story extensions shall count as additional gross floor area if the height from the joist to the underside of the ridge is greater than five feet. Horizontal access to attics shall be limited to nine square feet.

**BASEMENT:** That space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building.

**CELLAR:** That portion of a building with half or more of its floor-to-ceiling height below the average level of the adjoining ground. A “cellar” shall not be used or occupied as living or sleeping quarters. It shall be prohibited to use any cellar space as habitable space as defined by the New York State Residential Code.

**HABITABLE SPACE (NYS RESIDENTIAL CODE):** A space in a building for living, sleeping, eating or cooking, or used as a home occupation. Bathrooms, toilet rooms, closets, halls, storage or utility spaces and similar areas are not considered habitable spaces. Basements/cellars that have been invitingly finished are considered to be habitable spaces and must comply with all NYS requirements for habitable spaces, including a secondary means of egress.

**ACCESSORY BUILDING AND/OR STRUCTURE:** A subordinate building and/or structure customarily incidental to and located on the same lot occupied by the main building. All residential accessory buildings and/or structures are controlled by Article XI of the Town of North Hempstead Zoning Code. Accessory buildings and/or structures include, but are not limited to, pools, fences, detached garages, sheds (requires permit if over 100 square feet), stationary outdoor fireplaces and barbecues, pergolas, central air-conditioning units, generators, etc.

**MAINTAIN EXISTING:** An application for a building permit for construction, changes, alterations, improvements or modifications which had been previously completed without the required permit(s) and inspections. All maintenance applications filed in the Town of North Hempstead must be accompanied by plans demonstrating compliance with the applicable NYS Residential Code and Town of North Hempstead Zoning Code.

**NEW CASSEL URBAN RENEWAL OVERLAY DISTRICT:** The boundaries are the Wantagh Parkway on the eastern side, Brush Hollow Road and Union Avenue on the northern side, School Street on the western side and Railroad Avenue on the southern side. All applications for work in this district must meet the requirements of Article XXB of the Town of North Hempstead Zoning Code.

**PARKING SPACE:** The off-street paved or surfaced area available and usable for the parking of one motor vehicle, having dimensions of not less than 10 feet by 20 feet. A single-family dwelling is required to have two parking spaces. A two-family dwelling is required to have four parking spaces.

**PRIVATE GARAGE:** A detached accessory building or part of the main building used for the storage of not more than two noncommercial automobiles or one commercial and one noncommercial automobiles, owned and used by the occupant of the dwelling and in which no business or service is conducted. Such garage shall not exceed 26 feet in width and 24 feet in depth, with garage doors not to exceed eight feet in height.

**DRAINAGE REQUIREMENT:** All construction, or maintenance of existing construction, in which there will be an increase in impervious surface area in excess of 250 square feet requires on-site underground retention of 2 ½ inches of rainfall per 70-202.2 of the Town of North Hempstead Zoning Code. Impervious surfaces do not include decks or patios on sand or gravel. Patios on concrete base or crushed concrete aggregate are considered impervious surfaces.

**RETAINING WALLS:** All walls and other structures of any construction which are intended to, or which in fact, retain or support adjoining earth or rock. All construction or maintenance of retaining walls must meet the requirements found in Article XXII of the Town of North Hempstead Zoning Code.

# **Buying or Selling A Home?**

*Planning ahead can save a lot of aggravation and avoid delays*

by Anthony S. DiProperzio, AIA

Anyone who has purchased or sold a home knows the frustrations that can be associated with that experience. Establishing your budget, finding the right house or buyer, negotiating fees with the real estate and attorney, closing costs and taxes can be an exhausting endeavor. What most people fail to understand are the potential inherent building code or zoning issues that may come to light prior to closing which can substantially delay the process or, in some cases, break the deal.

There comes a time where every homeowner contemplates a seemingly simple project such as a window replacement, building a patio or deck or installing one of those prefabricated storage sheds. While these types of projects may appear to be minor in nature, they can have serious impacts if the home owner fails to check with the local municipality to verify if a building permit is required or if there are any zoning issues that must be addressed.

There has never been a time when so many closings have been delayed or there is a serious risk of a buyer losing a mortgage commitment as there has been over the past several years due to work performed without the proper permits and, in some cases, constructed in violation of either a building code or zoning requirements, all of which could have been avoided with a simple telephone call or visit to the local Building Department or through a consultation with a registered architect.

While many of these violations are committed rather innocently, their repercussions may be quite severe. All construction performed within New York State, with the exception of the five boroughs within New York City, must comply with The Building Code of New York State and the Zoning Ordinance adopted by the local municipality having jurisdiction. Properties within the five boroughs of New York City must comply with the New York City Building Code and the NYC Zoning Resolution.

Typically the building code controls the manner in which the structure is built while zoning regulations control the use of the land. The area, height, fire ratings of materials, exits, requirements for natural light and ventilation, structural systems, plumbing, mechanical and electrical systems are some of the areas controlled by the Building Code. The area, height, use, size, bulk (cubic contents), height, setbacks to property lines, floor area, open space and parking are typical zoning issues. Due to the complexity of these regulations, most projects require construction plans prepared by a licensed design professional (either a registered architect or a professional engineer) to be filed with the local Building Department for review to insure compliance with the applicable codes. So while that weekend project to construct a small deck may appear to be relatively simple, it can become a nightmare if you don't follow the regulations applicable to your City, Town or Village.

The most common violations are decks, finished basements and the enclosure of open porches to create additional living area. Generally these projects, when performed without the proper plans, permits and inspections are constructed with various code deficiencies. The following is a brief description of the many considerations which must be taken into account when contemplating such projects.



**DECKS** - Decks constructed above the ground level must be supported by a structural system consisting of footings, piers and framing. Each of these components must be designed with consideration of the composition of the soil which will support the foundation system and the loads imposed by the use of the deck itself. The footings must extend to the frost line to insure that there will not be settlement during the freezing (winter) and thawing (summer) cycles. The lack of proper footings and the improper depth of the footings are the most common violations for decks constructed without permits. The framing system must be designed to comply with the projected loads which will be imposed during normal use. Depending upon the height of the deck, a railing may be required. The railing must be designed to comply with various code provisions, including structural horizontal impact and the height and spacing between vertical and horizontal members. The steps for the deck must comply with maximum height and minimum width regulations.

**FINISHED BASEMENTS** - Probably the most innocent of violations and one of the most difficult to legalize after the fact. Most homes are constructed with unfinished basements/cellars intended for storage, boiler and laundry uses. It is easy to understand how a homeowner can assume that enclosing the boiler and laundry rooms and installing some sheetrock, flooring and a finished ceiling with new lighting to create a play room would not be a problem. After all, the space was already there. Unfortunately the applicable codes may make such installations difficult, if not impossible to legalize since the finished basement/cellar is then considered “usable” or “livable” space which will require compliance with the applicable codes. A second exit (means of egress) will also be required. This can be achieved either through the construction of a new exterior stair or the installation of an egress window with a window well area and a ladder or steps leading to grade. Additional considerations such as light and ventilation, adequate combustion air for the boiler must be considered. Any electrical or plumbing work must be performed by a licensed electrician or plumber. Since many of these violations are not detected until many years after the construction was actually completed the owner may not be able to find the electrician or plumber who performed the work. Finding another licensed plumber or electrician to take responsibility for work performed by others is usually difficult. Even work performed in compliance with the codes that were in effect at the time of construction, but performed without a permit can be problematic. Due to subsequent changes in the Code, such work may no longer be considered legal since they do not comply with the current code regulations. Any such work will be required to be altered to comply with the current regulations. In addition to the Building Code regulations cited above, some municipalities may now consider the newly created livable space as additional floor area resulting in a zoning violation which may require a variance action. The potential problems are endless.

**PORCH ENCLOSURES** - Similar to the finished basement scenario, constructing three new exterior walls below an existing roofed porch initially appears to be a simple and inexpensive way of creating additional usable space. Unfortunately such projects usually result in both Building Code and Zoning violations since the enclosure may cut off natural light and ventilation to an adjoining room and the newly-created space may now count as floor area.

In addition to those projects listed, other issues of concern to potential sellers and buyers are interior renovations, sheds, fences, porticos, awnings, additional plumbing fixtures, above ground pools, etc. all of which will cause a substantial delay in the closing and, in some cases, may result in a deal breaker.



If you are contemplating an improvement to your home or property your local Building Department will advise you as to whether a permit is required and will inform you of the applications, documents required and fees that must be included with your filing in order to obtain an approval and subsequent permit. Also bear in mind that although you have been issued a permit, that alone does not complete the process. Various inspections will also be required as well as other documentation, such as final survey, electrical certificates, affidavits, etc. in order to close out the application so that a final Certificate may be issued. Once the final Certificate is issued, the project is complete.

If you are selling or buying a home and have questions about an issue you suspect may be a potential problem you can visit your local Building Department and fill out a Freedom of Information request to review the records that are on file for that particular property. Once the files are made available to you, you can review them to determine the complete history including approved architectural plans, permits issued, any special conditions which may apply to the property, etc. I would recommend requesting copies of all important documents such as approved plans, surveys, certificates, etc. so that you can perform an inspection of the property to insure that the actual conditions of the home and property agree with the municipal records. If you find this task is beyond your capability you may retain a registered architect to perform those services on your behalf. Once a thorough investigation is performed and potential problems are identified your architect can perform a code study to determine what actions, if any, are necessary to overcome those issues.

As is always the case, a little due diligence far enough in advance will insure that your purchase or sale will proceed without unnecessary delays.

*This article was prepared as part of the Public Awareness Program by the Long Island Chapter of the American Institute of Architects. For further information regarding this program, or if your group is interested in having a presentation regarding the services of an architect, you may contact the Chapter offices by calling (516) 294-0971 or email to [alomo3535@aol.com](mailto:alomo3535@aol.com).*

## Preexisting Average Grade

*This information is to be used in conjunction with Chapter 70 of the Town of North Hempstead Code*

**Requirement:** In all residential zoning districts, new construction is limited to a maximum height of 30 feet. The maximum height to the uppermost eave shall be 22 feet.

**When Required:** Construction of a new dwelling, two-story or second story addition.

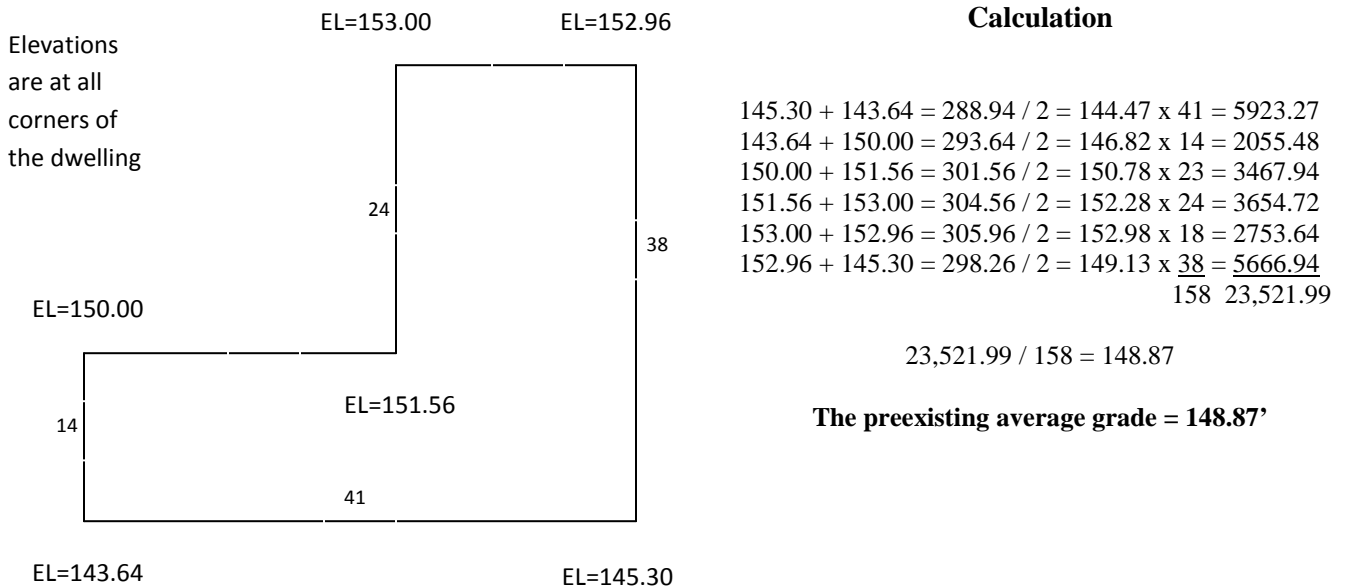
**Building Height:** The vertical distance measured from the average level of the preexisting grade at the perimeter of the building to the highest point of the roof.

**Eave Height:** The top of the uppermost wall plate, as measured from the average level of the preexisting grade at the perimeter of the building.

**Preexisting grade:** The elevation of the land prior to commencement of any alteration, grading or construction at the premises.

**Explanation:** To determine the preexisting average grade you must superimpose the perimeter of the proposed dwelling onto the topographical survey of the existing property to determine the existing elevations of the property at the corners of the proposed building before any re-grading of the property occurs.

The following is an example of the diagram and calculation which must be provided on the plans:



- Once the preexisting average grade is determined, it must be shown on the elevations along which the elevation of the top of foundation, eave height and building height.
- The approved plans for new dwellings and two-story additions will be stamped with “FOUNDATION LOCATION SURVEY REQUIRED PRIOR TO FRAMING”. The foundation location survey must provide the elevation of the top of foundation.
- The approved plans for new dwellings, two-story additions and second story additions will be stamped with “UPDATED SURVEY WITH RIDGE AND EAVE HEIGHT IS REQUIRED AFTER FRAMING”

# Gross Floor Area

*This information is to be used in conjunction with Chapter 70 of the Town of North Hempstead Code*

**Requirement:** In all residential zoning districts, the maximum permitted gross floor area is limited by both a percentage of the lot area and a maximum allowable for that zoning district.

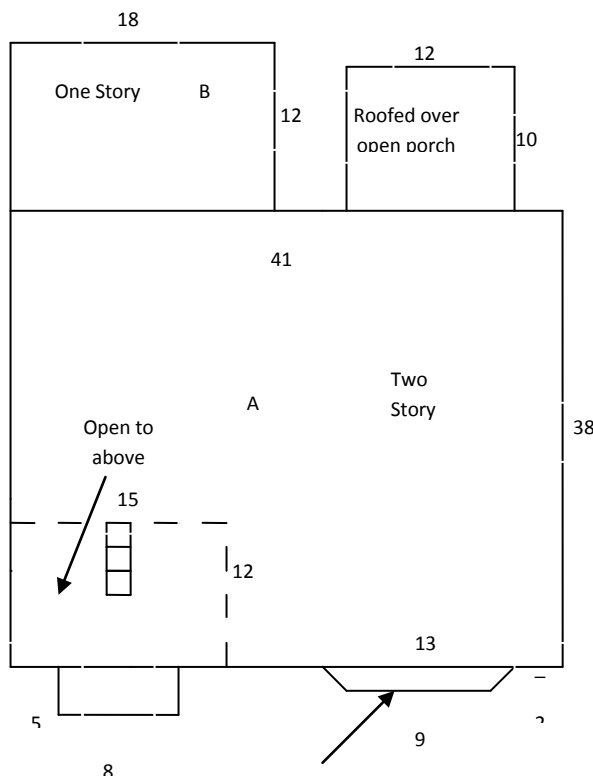
**When Required:** Any new construction or maintenance of existing construction which increases the gross floor area as defined below.

**Gross Floor Area (70-231):** The sum of the gross horizontal area of all floors or stories of a dwelling as measured to the outside surfaces of structural walls as well as attached garages, enclosed porches and roofed porches having more than 50% of the perimeter enclosed or screened and basement areas with ceiling heights in excess of seven feet or greater. Basement areas with a maximum ceiling height of eight feet shall not be included in the gross floor area in all residential building permit applications or amendments submitted prior to December 21, 2007. Attics and cellars shall be excluded from the gross floor area. The gross floor area of detached garages greater than 300 square feet shall be included in their entirety. Gross floor area in dwellings for areas exceeding 10 feet in height shall be counted at 1.5 times the actual floor area except in garages.

**Attic (70-231):** Attics over one-story extensions shall count as additional gross floor area if the height from the joist to the underside of the ridge is greater than five feet.

**Basement (70-231):** The space of a building that is partly below grade which has more than half of its height, measured from floor to ceiling, above the average established finished grade of the ground adjoining the building.

The following is an example of the diagram and calculation which must be provided on the plans:



## Calculation

A (main dwelling)	$41 \times 38 =$	1,558
B (rear addition)	$18 \times 12 \times 1.5 =$	324
C (one-story vestibule)	$5 \times 8 =$	40
D (one-story bay)	$11 \times 2 =$	22
First floor total =		1,944

A (main dwelling)	$41 \times 38 =$	1,558
E (open foyer)	$((15 \times 12) - (3 \times 8))/2 =$	- 78
Second floor total =		1,480

Detached Garage	$20 \times 20 =$	400
Roofed over open porch	$10 \times 12 =$	0

Total gross floor area = 3,824

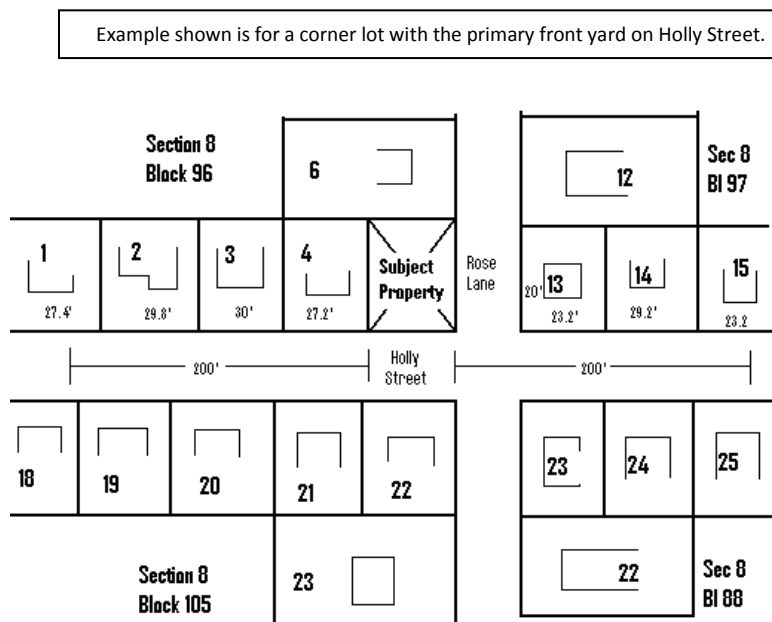
- Note that the area of the staircase does not get deducted from either the first floor or second floor gross floor area.
- Note that the roofed over open porch which is open at more than 50% of its perimeter does not get included in gross floor area.
- Note that the one-story rear addition with an 11' ceiling has been counted at 1.5 times its actual floor area

# Average Front Yard Setback

*This information is to be used in conjunction with Chapter 70 of the Town of North Hempstead Code*

- Requirement:** In all residential zoning districts, the minimum front yard depth shall be the same as the average front yard depth of the existing primary buildings within 200 feet (300 feet for zoning district AA) on each side of the lot on the same side of the street and within the same zoning district, or the minimum front yard setback for that district, whichever is greater. On a lot with multiple street fronts, the average front yard setback shall only apply to the primary front yard.
- When Required:** Construction of a new dwelling, front addition, second story over existing first story, or any front portico, porch or vestibule.
- Primary Front Yard:** The front yard with the narrower street frontage. For lots having equal street frontage, the primary front yard shall be the front yard where the main entrance is established.
- Existing Buildings:** The front yards of the existing building is measured to the main building, not permitted encroachments such as open porches, enclosed porches, vestibule and porticos.

The following is an example of the diagram and calculation which must be provided on the plans:



## Calculation

	Holly Street	Rose Lane
Block	Lot	Average front yard setback is no longer required for secondary front yards.
96	1 27.4	
	2 29.8	
	3 30.0	
	4 27.2	
97	13 23.2	
	14 29.2	
	15 23.2	
	190.0	

**The front yard requirement for the secondary front yard is the minimum required by subsection B of the specific zoning districts Front Yard requirement.**

$$190.0 / 7 = 27.14'$$

**The subject property is not included in the calculation of average front yard setback**

- The existing front yard setbacks of the required buildings may be obtained by actual field survey performed by a Licensed Land Surveyor or by filing FOIL requests with the Town of North Hempstead Building Department for a copy of any survey which may exist in the property folders of the subject properties. When using surveys from the town records it is the applicant's responsibility to verify that the surveys depict current field conditions. Front yard setbacks cannot be obtained by estimating overhead photographs from the Nassau County Assessor or other online sources.
- The average front yard is required to be provided even if the applicant is proposing to build directly over or to the side of an existing first floor at the front of the existing dwelling.

# Most Common Deficiencies Found In Residential Submissions

*The following is a list of the most common errors found on applications that have been submitted to the Buildings Department. The list does not encompass all errors, but represents the most common errors that cause delay in the issuance of permits.*

1. Applicants fail to read and comply with the instructions noted on the application. The failure to provide all “required” items/documentation with the application is the leading cause for rejection of the application or a delay in the issuance of the permit. Be sure to read the instructions carefully. **YOU WILL NOT RECEIVE A PERMIT UNTIL ALL THE REQUIREMENTS HAVE BEEN MET!** The following are some additional common application deficiencies:
  - a. On “maintain” applications, the applicant is required to provide a “design professional’s” certification letter and an original Electrical Underwriter’s Certificate covering the scope of the work described in the application being filed. The design professional’s certification must specifically list the construction being maintained and certify that the construction meets the minimum requirements of the NYS Uniform Fire Prevention and Building Code.
  - b. Applications to “maintain” improvements must be accompanied by two sets of plans bearing full construction details. Floor plan layouts are not sufficient. The plans must provide all construction details demonstrating compliance with all applicable building codes.
  - c. Many times, applicants file an old survey that does not accurately reflect the conditions at the location. By failing to submit a survey that accurately depicts the existing conditions at the site, the process is delayed when it is later discovered there have been alterations to the footprint of the house, installation of sheds, a/c units and/or other improvements that were done without the benefit of a permit. An accurate survey saves time and avoids further inconvenience in the long run.
2. Applications proposing an increase in the GROSS FLOOR AREA need a gross floor area diagram and calculation on the plans. A GROSS FLOOR AREA handout can be found on the website to assist and guide applicants.
3. Applications proposing construction which may impact the FRONT YARD, such as a portico, vestibule or first and second floor additions need to have an average front yard setback diagram on the plans. An AVERAGE FRONT YARD handout can be found on the website to assist and guide applicants.
4. Applications proposing a new dwelling, two-story addition or second floor addition need to have a PRE-EXISTING AVERAGE GRADE analysis on the plans. A PRE-EXISTING AVERAGE GRADE handout can be found on the website to assist and guide applicants.
5. Improvements to a dwelling that include new plumbing, new gas appliances, new dry wells and/or new HVAC units must have plumbing permits associated with each installation. The time to apply for those plumbing permits is at the same time as the building permit application is filed. Failure to do so will result in an omissions letter being sent resulting in a further delay in the issuance of the building permit.
6. All permit applications receive a review of the property’s historic file(s). If the Town’s review of the file(s) reveals items such as pools, decks, fences, finished cellars, bathrooms, etc., that have been constructed without permits, a letter will be generated requesting the filing of additional applications to address the “unpermitted” improvements. Although these “unpermitted” improvements will not delay the review and issuance of permits for proposed new construction these issues must be addressed in a timely manner.
7. When an omission letter is received, the resident and/or architect must make certain each and every issue set forth in the letter are completely addressed. Failure to address all criteria set forth in the omission letter will result in another omission letter being sent after the new submission is reviewed. Consequently, a further delay in the issuance of the permit shall result.

# Most Common Deficiencies Found In Commercial Submissions

*The following are some of the most common deficiencies found in plans submitted to the Buildings Department for review. Each issue represents preventable delay in the processing of a Commercial application. This is a partial list of deficiencies and is not intended to represent all the requirements necessary for a complete and accurate submission:*

1. Drawings submitted without the basic information required for a code review including occupancy classification, construction classification, active fire protection systems, passive fire protection systems, normal and emergency egress lighting, and exit signs, travel distance and all three components of the path of egress.
2. The submission of plans for the alteration of a portion of a building or floor without showing the entire floor or building as is required to demonstrate compliance with egress requirements.
3. The requirements of the Nassau County Fire Marshalls Office neither negate nor eliminate the need for the applicant to demonstrate compliance with all applicable New York State Building Codes.
4. Specific provisions of the Fire Code of New York State apply to all buildings that existed as of the date of adoption of the Code. Compliance with these provisions is mandatory.
5. Documents demonstrating compliance with the provisions for Structural Tests and Special Inspections pursuant to Chapter 17 of the New York State Building Code are required prior to the issuance of a building permit. This includes naming the special inspectors and providing proof of their qualifications.
6. The 2010 Energy Conservation Construction Code now includes additional provisions for building alterations and alterations to building systems. Documentation demonstrating compliance with the Code must accompany the application at the time of filing.
7. Statements on the drawings indicting 'no change to occupancy, egress etc' need to be deleted. That determination is the sole responsibility of the plans examiner.
8. A set of code compliant drawings are based on the eight books comprising the New York State Uniform Fire Prevention and Building Code as well as all reference standards such as ANSI A117.1-2003 for handicapped accessibility.
9. Resubmissions in response to the objections need to include two full set of coordinated and stapled drawings.
10. Each comment or objection needs to be addressed. Failure to comply does not make the comment go away. Incomplete resubmissions will not be accepted by the Building Department.
11. All associated applications must be filed at the same time as the Building Permit Application so that the entire project can be reviewed at the same time. These include but are not limited to Plumbing, HVAC, Gas, Fire Sprinkler, Infrastructure, Drainage, etc. If alterations to any of these building elements are included on the plans the appropriate application must be filed.
12. Complete parking analysis must be provided for all new construction and alterations that may change the parking requirement for the tenant space. This includes providing a parking calculation for the entire building based on the previous permitted occupancy and the proposed change in occupancy.